

## HUMAN SERVICES BOARD

## INTRODUCTION

## FINDINGS OF FACT

<sup>1</sup> At the time of the hearing, the petitioner was investigating whether she could still enroll in the insurance program for this year.

2003, because she is "an ineligible student." PATH later clarified that the reason the petitioner is ineligible is that her college offers group health insurance covering doctor and hospital bills which the petitioner declined.

3. The petitioner agrees that her college offers an insurance program but she characterizes it as an "accident only" policy designed to avoid liability for the college. It does not cover any routine health care checks and she has had to pay out of pocket for those expenses since her VHAP was terminated.

4. The policy prospectus provided by the petitioner's college to its students provides for "reimbursement of certain eligible medical expenses incurred because of (1) accidental bodily injuries occurring to the student, directly and independently causing a loss to the student while covered under the plan; and (2) a covered disease or illness contracted by the student while covered under the plan." Students may elect two plans, both of which cover hospital and physician services and one of which has superior coverage in terms of number of days and dollar maximums. The plans provide for coverage of hospital expenses and physician expenses with certain restrictions and maximum capped amounts. The plans also cover laboratory expenses, radiation and

chemotherapy, prescription medicine expenses (including contraceptives), pregnancy and abortion expenses, surgical expenses, the treatment of mental illness, cancer screening, diabetes expenses and a home health care benefit. The plans do exclude normal health checkups as well as routine dental treatment.

5. It is found that the plans available to the petitioner through her college, though certainly not as comprehensive as the VHAP program, do cover hospital and physician services for both accidents and illnesses.

ORDER

The decision of PATH terminating the petitioner's VHAP benefits is affirmed.

REASONS

PATH's regulations limit VHAP coverage to "uninsured and underinsured" individuals. VHAP 4001.2. Those terms are defined as follows:

Individuals meet this requirement only if they do not qualify for Medicare and have no other insurance that includes both hospital and physician services, and did not have such insurance within the 12 months prior to the month of application, unless they meet one of the following exceptions specified below.

. . .

(b) Exceptions related to loss of college or university-sponsored coverage.

Individuals who had coverage under another health insurance plan within the 12 months prior to the month of application meet this requirement if college or university-sponsored health insurance became unavailable to them because they graduated, took a leave of absence, or otherwise terminated their studies.

Students under the age of 23 enrolled in a program of an institution of higher education are not eligible for coverage, however, if they:

- have elected not to purchase health insurance covering both hospital and physician services offered by their education institution; or
- are eligible for coverage through the policy held by their parents, but their parents have elected not to purchase this coverage.

VHAP 4001.2

The Board has held previously that the above restriction is a reasonable one because it "allows PATH to cover the largest group of completely uninsured persons possible by excluding other persons who have reasonable access to some minimal level of insurance through the group insurance rates of an institution." Fair Hearing No. 17,538. There is no requirement in the regulation with regard to the scope or cost of the benefits provided by the institution's insurance policy so long as it covers "both hospital and physician services." See Fair Hearing Nos. 17,472, 16,524 16,378 and 16,748.

The petitioner's college offered her a health insurance policy covering both hospital and physician services which she elected not to purchase. The petitioner has been aware since at least early September that VHAP was closing for her because of her full-time enrollment at the college. If the petitioner is unable to obtain coverage through her school at this point because of her delay in applying for benefits she can reapply for VHAP benefits.<sup>2</sup> However, she is technically still ineligible and would have the heavy burden of showing that PATH had failed to inform her of its rule and that she was justifiably unaware that her VHAP benefits were to end prior to any deadline for applying for insurance at the college. As PATH's decision is in accord with its rule, its decision terminating her benefits for failure to elect the school-sponsored insurance program must be upheld by the Board. 3

V.S.A. § 3091(d), Fair Hearing Rule 17.

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<sup>2</sup> The college policy prospectus states that all students are required to have insurance and offers its program from August to August of each year. Since it is not uncommon to lose insurance coverage for one reason or other during a school year, it would be logical that students who lose their insurance during the school year could join the school's coverage in order to meet the school's requirement.